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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,338	03/10/2000	Eric P. Plourde	769-254	5232

7590 07/22/2003  
PJITNEY, HARDIN, KIPP & SZUCH LLP  
685 THIRD AVENUE  
New York, NY 10017-4059

EXAMINER

KIM, EUGENE LEE

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 07/22/2003

EC

21

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/523,338

Examiner

Eugene L Kim

Applicant(s)

PLOURDE ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003 .
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ . 6) ☐ Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-5, 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification discloses that the perforations are tear resistant in the objects and summary of the invention section (p. 3) while claim 1 is reciting that the web component has a tendency to tear along the lines of apertures. Furthermore, claim 1 line 6 also recites that the orientation of the line vent apertures minimizes tear propagation

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cetrelli (#4,284,228) or Wendt (#2,689,678) in view of Applicant's admitted prior art. Cetrelli shows the method of providing vent apertures to a web component wherein a

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line of vent apertures 7 are oriented in a direction that is not parallel to the first direction as claimed. Cetrelli discloses a roller with depressions to form apertures 7. Cetrelli discloses that the apertures provide good ventilation without any kind of weakening of the packing material (col 4 lines 36-51). Cetrelli does not specifically show the roller means in combination with an anvil. Wendt shows a line of vent apertures 7 that are formed by cutting means 9 but do not show the cutting means as claimed. The slits are oriented in the same manner as applicant's slits. Applicants admitted prior art, hereinafter, AAPA, disclose that the prior art slit perforations use a round wheel against an anvil roller (p. 1 lines 16+). AAPA also discloses that a large number of slits are required to evacuate air (p.2 lines 12+). AAPA also disclose that it is well known in the art to provide perforations to provide for a predetermined tear line across the sheet media on p. 1 lines 4+. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Cetrelli or Wendt with cutting wheels and anvil means and to make a large number of apertures as taught by AAPA to form depressions in the workpiece using conventional known means. The only way to cut the apertures of Cetrelli is to move the cutting wheel in a direction that is transverse to the direction of the apertures. Regarding claims 2 and 11, this is the conventional way to form slits as shown in figure 1 wherein the teeth are parallel to the cutting axis. Regarding claim 5, it is well known in the art to use zipper tape means. Regarding the repeating step, the examiner notes as discussed supra that AAPA discloses that a large number of apertures are required to evacuate air and it would have been obvious to one

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of ordinary skill in the art at the time of the invention to provide Cetrelli in view of AAPA with a large number of slits by repeating the cutting step.

5. Applicant's arguments filed 7/2/2003 have been fully considered but they are not persuasive. In response to applicant's arguments regarding the web component having a tendency to tear along the apertures, the examiner maintains the 112 1<sup>st</sup> paragraph rejection set forth supra. AAPA discloses that this is a well-known concept to have a tear line are as discussed supra on p. 1 lines 4+. Furthermore, Wendt shows a line of apertures that are equivalent to applicants.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene L Kim whose telephone number is 703 308-1886. The examiner can normally be reached on Tuesday-Friday 8 a.m. to 6 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9302 for regular communications and 703 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1148.



Eugene Kim  
July 22, 2003